

**STATE OF WEST VIRGINIA  
WEST VIRGINIA SECURITIES COMMISSION  
BEFORE THE SECURITIES COMMISSIONER  
CHARLESTON, WEST VIRGINIA 25305**

**ORDER NO. 08-1349 VACATING ORDER NO.93-097, AS  
AMENDED, PROVIDING DEFINITIONS FOR INVESTMENT  
ADVISER REPRESENTATIVES AND BRANCH OFFICES**

Pursuant to the authority granted to him by Chapter 32, of the West Virginia Code, 1931, as amended ("The West Virginia Uniform Securities Act"), herein after referred to as the "Act", and particularly Chapter 32, Article 4, Section 412 of the Act, the Commissioner of Securities ("Commissioner") has reviewed the adoption of Order No. 93-097, as amended.

Pursuant to said review, the Commissioner is of the opinion and finds as follows:

**FINDINGS OF FACT**

1. Order No.93-097 sets forth definitions and procedures for both investment adviser representatives and branch offices.
2. The definitions and procedures set forth in Order No. 93-097 are obsolete or in need of revision based on further analysis.
3. It is in the interest of clarity that new orders dealing with the issues of definitions and procedures for investment adviser representatives and branch offices be adopted separately.
4. The Order adopted herein deals solely with the definition and procedures for investment adviser representative.
5. This Order is necessary and appropriate in the public interest.

**CONCLUSIONS OF LAW**

1. Chapter 32, Article 4, Section 412(a) of the Act provides that the Commissioner may from time to time make orders as necessary to carry out the provisions of the Act.
2. This Order is consistent with the purposes fairly intended by

the policies and provisions of the Act as required in Chapter 32, Article 4, Section 412(b) of the Act.

### **Investment Adviser Representatives**

1. "Investment Adviser Representative" as defined in Chapter 32, Article 4, Section 401(h) of the West Virginia Code states:

"Investment adviser representative" means any partner, officer, director of or a person occupying a similar status or performing similar functions or other individual, except clerical or ministerial personnel, who is employed by or associated with an investment adviser that is registered or required to be registered under this chapter or who has a place of business located in this state and is employed by or associated with a federal-covered adviser; and including clerical or ministerial personnel, who does any of the following: (1) Makes any recommendations or otherwise renders advice regarding securities; (2) manages accounts or portfolios of clients; (3) determines which recommendation or advice regarding securities should be given; (4) solicits, offers or negotiates for the sale of or sells investment advisory services unless the person is registered as an agent pursuant to this article; or (5) supervises employees who perform any of the foregoing unless the person is registered as an agent pursuant to this article.

2. An investment adviser, whether registered under the Act or not, must list on Schedule D of Form ADV all persons that are investment adviser representatives as that term is defined within the Act.
3. Only one individual, partner, officer, or director of any entity may be listed as an investment adviser. All others coming within the definition of investment adviser representative must be listed on Schedule D of Form ADV.

Entered this 14<sup>th</sup> Day of May, 2008

Glen B. Gainer, III  
State Auditor  
Commissioner of Securities

By: Lisa A. Hopkins  
General Counsel  
Senior Deputy Commissioner of Securities